



59 Maiden Lane, 6th Floor
New York, NY 10038

Gary J. Douglas ^P
Michael A. London ^{*}
Stephanie O'Connor ^{*}
Randolph D. Janis
Virginia E. Anello [^]

Rebecca G. Newman ^{*}
Alicia Ellsayed
Lara J. Say ^{*n}
Tate J. Kunkle [†]
Anne Accettella
Sara Castronuova ^{*}

Phone: (212) 566-7500

Fax: (212) 566-7501

www.DouglasAndLondon.com

^{*} Also admitted in NJ

^P Also admitted in PA

[^] Also admitted in LA & MA

ⁿ Also admitted in NC

[†] Also admitted in CT

*The attorney in charge of New Jersey
practice is Michael A. London*

August 1, 2024

VIA ECF

Honorable Brian M. Cogan
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

**Re: In re: Oral Phenylephrine Marketing and Sales Practices Litigation
1:23-md-03089-BMC**

Dear Judge Cogan:

The undersigned write on behalf of the Plaintiff Executive Committee (“PEC”) and Defendants to jointly request a two-week extension of time, from August 1, 2024 to August 15, 2024, to submit the parties’ proposed ESI Order.

As the Court is aware, the parties have been negotiating a Protective Order and ESI Order. As to the Protective Order, the parties have reached agreement, and the proposed Protective Order will be submitted to the Court today, August 1, 2024. Regarding the ESI Order, the initial Rule 26(f) conferences between the parties permitted them to reach agreement on many of the previously disputed issues related to said order. However, two disputed issues remain and the parties would like additional time to discuss to see if an agreement can be reached without the need for Court intervention.

Accordingly, the parties respectfully request to move the due date for submission of an agreed-to ESI Order or competing ESI Orders to August 15, 2024. This is the parties’ second request for an extension as it applies to the ESI Order deadline.

We thank the Court for its time and continued courtesies.

Dated: August 1, 2024

Respectfully Submitted:

/s/ Michael A. London
Michael A. London (ML-7510)
DOUGLAS & LONDON P.C.
59 Maiden Lane – 6th Floor
New York, New York 10038
Tel: 212-566-7500
mlondon@douglasandlondon.com
*Chairperson of the Plaintiffs' Executive
Committee*

/s/ Bryan F. Aylstock
AYLSTOCK WITKIN KREIS
OVERHOLTZ PLLC
17 East Main Street, Suite 200
Pensacola, Florida 32502
Tel: 850-202-1010
baylstock@awkolaw.com

/s/ Kiley L. Grombacher
BRADLEY/GROMBACHER LLP
31365 Oak Crest Drive, Suite 240
Westlake Village, California 91361
Tel: 866-881-0403
kgrombacher@bradleygrombacher.com

/s/ James E. Cecchi
CARELLA BYRNE CECCHI BRODY &
AGNELLO, P.C.
5 Becker Farm Road
Roseland, New Jersey 07068
Tel: 973-994-1700
jcecchi@carellabyrne.com

/s/ Adam J. Levitt
DICELLO LEVITT LLP
Ten North Dearborn Street, Sixth Floor
Chicago, Illinois 60602
Tel: 312-214-7900
alevitt@dicellolevitt.com

/s/ Elizabeth A. Fegan
FEGAN SCOTT LLC
150 South Wacker Drive, 24th Floor
Chicago, Illinois 60606

Tel: 630-273-2625
beth@feganscott.com

/s/ Jonathan D. Selbin
LIEFF CABRASER HEIMANN &
BERNSTEIN LLP
250 Hudson Street, 8th Floor
New York, New York 10013
Tel: 212-355-9500
jselbin@lchb.com

/s/ Christopher A. Seeger
SEEGER WEISS LLP
55 Challenger Road
Ridgefield Park, New Jersey 07660
Tel: 888-546-8799
cseeger@seegerweiss.com

/s/ Jason P. Sultzer
THE SULTZER LAW GROUP P.C.
85 Civic Center Plaza Ste. 200
Poughkeepsie, New York 12601
Tel: 845-244-5595
sultzerj@thesultzerlawgroup.com

/s/ Lindsey N. Scarcello
WAGSTAFF & CARTMELL
4740 Grand Avenue, Suite 300
Kansas City, Missouri 64112
Tel: 816-701-1100
lscarcello@wcllp.com

*Plaintiffs' Executive Committee
and Interim Class Counsel*

/s/ Andrew Soukup

Andrew Soukup (*pro hac vice*)
Laura Flahive Wu
COVINGTON & BURLING LLP
One CityCenter
850 Tenth Street, NW
Washington, DC 20001-4956
Telephone: (202) 662-6000
asoukup@cov.com
lflahivewu@cov.com

Cortlin H. Lannin (*pro hac vice*)
COVINGTON & BURLING LLP
Salesforce Tower
415 Mission Street, Suite 5400
San Francisco, CA 94105
Telephone: (415) 591-6000
clannin@cov.com

*Attorneys for Defendant The Procter &
Gamble Company*

/s/ Hannah Y. Chanoine

Hannah Y. Chanoine
Jeffrey A. N. Kopczynski
O'MELVENY & MYERS LLP
1301 Avenue of the Americas, 17th Floor
New York, NY 10019
Telephone: (212) 326-2000
hchanoine@omm.com
jkopczynski@omm.com

Amy J. Laurendeau (*pro hac vice*)
Emilie W. Hamilton
O'MELVENY & MYERS LLP
610 Newport Center Drive, 17th Floor
Newport Beach, CA 92660
Telephone: (949) 823-6900
alaurendeau@omm.com
ehamilton@omm.com

*Attorneys for Defendant Johnson &
Johnson Consumer Inc.*

/s/ Robert W. Sparkes, III

Robert W. Sparkes, III (*pro hac vice*)
Jennifer Janiera Nagle (*pro hac vice*)
K&L GATES LLP
1 Congress Street, Suite 2900
Boston, MA 02114
Telephone: (617) 261-3100
robert.sparkes@klgates.com
jennifer.nagle@klgates.com

Ruby A. Nagamine (*pro hac vice*)
K&L GATES LLP
925 Fourth Avenue, Suite 2900
Seattle, WA 98104
Telephone: (206) 623-7580
ruby.nagamine@klgates.com

*Attorneys for Defendants Amazon.com, Inc.
and Amazon.com Services LLC*

/s/ E. Paige Sensenbrenner
E. Paige Sensenbrenner (*pro hac vice*)
Diana Cole Suprenant (*pro hac vice*)
ADAMS AND REESE, LLP
701 Poydras Street, Suite 4500
New Orleans, LA 70139
Telephone: (504) 581-3234
paige.sensenbrenner@arlaw.com
diana.suprenant@arlaw.com

*Attorneys for Defendants Associated
Wholesale Grocers, Inc. and Valu
Merchandisers Co.*

/s/ Michael Klebanov
Michael Klebanov (*pro hac vice*)
HUSCH BLACKWELL LLP
1801 Pennsylvania Avenue, NW, Suite 1000
Washington, DC 20006
Telephone: (202) 378-2363
michael.klebanov@huschblackwell.com

Tanner Cook (*pro hac vice*)
HUSCH BLACKWELL LLP
8001 Forsyth Boulevard, Suite 1500
St. Louis, MO 63105
Telephone: (314) 480-1500
Tanner.cook@huschblackwell.com

Attorneys for Defendant Dierbergs Markets, Inc.

/s/ Michael F. Healy

Michael F. Healy (*pro hac vice*)
SHOOK, HARDY & BACON L.L.P.
555 Mission Street, Suite 2300
San Francisco, CA 94105
Telephone: (415) 544-1900
mfhealy@shb.com

Daniel B. Rogers (*pro hac vice*)
SHOOK, HARDY & BACON L.L.P.
201 South Biscayne Boulevard Suite 3200
Miami, FL 33131
Telephone: (305) 358-5171
drogers@shb.com

Attorneys for Defendant Publix Super Markets, Inc.

/s/ James L. Bernard

James L. Bernard
HOGAN LOVELLS US LLP
390 Madison Avenue
New York, NY 10017
Telephone: (212) 918-3121
James.bernard@hoganlovells.com

Lauren S. Colton (*pro hac vice*)
HOGAN LOVELLS US LLP
100 International Drive, Suite 2000
Baltimore, MD 21202
Telephone: (410) 659-2733
Lauren.colton@hoganlovells.com

Attorneys for Defendant RB Health (US) LLC

/s/ Cara D. Edwards

Cara D. Edwards
DLA PIPER LLP (US)
1251 Avenue of the Americas, 27th Floor
New York, NY 10020

Telephone: (212) 335-4714
cara.edwards@us.dlapiper.com

Christopher G. Campbell
DLA PIPER LLP (US)
1201 West Peachtree Street, Suite 2800
Atlanta, GA 30309
Telephone: (404) 736-7800
christopher.campbell@us.dlapiper.com

Christopher Young (*pro hac vice*)
DLA PIPER LLP (US)
4365 Executive Drive, Suite 1100
San Diego, CA 92121
Telephone: (619) 699-4748
christopher.young@us.dlapiper.com

*Attorneys for Defendant Bayer HealthCare,
LLC*

/s/ Mark J. Lesko
Mark J. Lesko
GREENBERG TRAURIG, LLP
900 Stewart Avenue, 5th Floor
Garden City, NY 11530
Telephone: (631) 994-2408
Mark.Lesko@gtlaw.com

Nilda Isidro
Dale Rose Goldstein
GREENBERG TRAURIG, LLP
One Vanderbilt Avenue
New York, NY 10017
Telephone: (212) 801-9200
Nilda.Isidro@gtlaw.com
GoldsteinD@gtlaw.com

Sara K. Thompson
GREENBERG TRAURIG, LLP
3333 Piedmont Rd Suite 2500
Atlanta, GA 30305
Telephone: (678) 553-2392
Sara.Thompson@gtlaw.com

*Attorneys for Defendants Albertsons
Companies, Inc., Costco Wholesale
Corporation, CVS Pharmacy Inc., Rite Aid*

Corporation, Target Corporation, Walgreen Co., Walmart Inc., and Wal-Mart Stores East, LP

/s/ Richard Fama

Richard Fama
COZEN O'CONNOR
3 WTC, 175 Greenwich Street, 55th Floor
New York, NY 10007
Telephone: (212) 509-9400
rfama@cozen.com

Karl Riley (*pro hac vice*)
COZEN O'CONNOR
Southeast Financial Center, Suite 3000
200 South Biscayne Blvd.
Miami, FL 33130
Telephone: (305) 704-5940
koriley@cozen.com

Attorneys for The Kroger Co., Harris Teeter, LLC, and Harris Teeter Supermarkets, Inc.

/s/ Jay P. Lefkowitz

Jay P. Lefkowitz. P.C.
Jacob M. Rae
KIRKLAND & ELLIS LLP
601 Lexington Avenue
New York, NY 10022
Telephone: (212) 446-4800
lefkowitz@kirkland.com
jacob.rae@kirkland.com

Robyn E. Bladow (*pro hac vice*)
KIRKLAND & ELLIS LLP
555 S. Flower Street
Los Angeles, CA 90071
Telephone: (213) 680-8400
robyn.bladow@kirkland.com

Attorneys for Defendant Haleon US Holdings LLC